

**Board of Contract Appeals**  
General Services Administration  
Washington, D.C. 20405

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May 28, 2002

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GSBCA 15810-RELO

In the Matter of STEVEN H. JENKINS

Steven H. Jenkins, Blaine, WA, Claimant.

Edgardo Aviles, Chief, Travel Section, National Finance Center, United States Customs Service, Department of the Treasury, Indianapolis, IN, appearing for Department of the Treasury.

**DeGRAFF**, Board Judge.

Steven H. Jenkins asks that we review his agency's decision to deny his claim for reimbursement of temporary quarters subsistence expenses. Because Mr. Jenkins was on vacation and was not occupying temporary quarters within reasonable proximity of either his old duty station or his new duty station, the agency correctly decided to deny his claim.

Mr. Jenkins is employed by the United States Customs Service, an agency within the Department of the Treasury. In late 2001, Customs transferred Mr. Jenkins from his permanent duty station in Texas to a new permanent duty station in the state of Washington. In connection with the transfer, Customs authorized Mr. Jenkins to incur sixty days of reimbursable temporary quarters subsistence expenses (TQSE). Mr. Jenkins spent twenty-nine days in temporary quarters in a hotel near his new duty station. He then joined his family for an eleven-day vacation in Utah, more than 900 miles away. While he was in Utah, he paid the hotel in Washington \$20 per day to store his belongings. After his vacation, Mr. Jenkins returned to the hotel in Washington for an additional twenty days.

Mr. Jenkins submitted a claim to Customs for his temporary quarters subsistence expenses for sixty days. For the eleven days he was in Utah, he asked to be reimbursed \$220 for the amount that he paid to the hotel and \$365.75 for meals. Customs decided to reimburse Mr. Jenkins for his hotel bill, but not for his meals, for the eleven days. He asks us to review this decision.

Payment of TQSE is authorized by 5 U.S.C. § 5724a(c)(1)(A) (2000), which provides that an agency may pay subsistence expenses of an employee who transfers in the interest of the Government while the employee "is occupying temporary quarters." This statutory provision is implemented by the Federal Travel Regulation, which explains that temporary

quarters are those obtained for the purpose of temporary occupancy until the employee can move into permanent quarters, and that TQSE are expenses incurred while occupying temporary quarters. Temporary quarters must be located within reasonable proximity of the old or new duty station, and an employee will not be reimbursed for occupying quarters at any other location unless justified by special circumstances that are reasonably related to the transfer. Agencies may not reimburse TQSE for vacation purposes or other reasons unrelated to the transfer. 41 CFR 302-5.1, -5.2, -5.9, -5.300, -5.302 (2001); Robert E. Jacob, GSBCA 13792-RELO, 97-2 BCA ¶ 29,218.

In support of his claim, Mr. Jenkins says that an employee might not need sixty days to secure permanent quarters, that he was entitled to use annual leave and go to Utah, and that he had to eat no matter where he was. Temporary quarters are supposed to be used, however, only for so long as necessary until an employee can move into permanent quarters. 41 CFR 302-5.300. If an employee does not need to occupy temporary quarters for sixty days, the employee should move into permanent quarters and should not occupy temporary quarters at the expense of the taxpayers. Although Mr. Jenkins could use his annual leave when he wanted and undoubtedly had to eat wherever he was, we know of nothing that requires an agency to reimburse an employee for expenses incurred while on vacation.

Customs correctly decided to deny Mr. Jenkins' claim for meals.<sup>1</sup> Mr. Jenkins was not occupying temporary quarters while he was in Utah, because his quarters there were not reasonably near either his old or his new duty station and his presence in Utah was not related to his transfer. Instead, he was there for the purpose of a vacation and the regulation explicitly states that an agency may not authorize TQSE reimbursement for vacation purposes. According to the statute, the regulation, and our precedent, Mr. Jenkins is not eligible to be reimbursed for the \$365.75 he seeks.

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<sup>1</sup> We are not sure what authority Customs relied upon when it reimbursed him \$220 for the expense of storing his belongings in Washington while he was in Utah.

The claim is denied.

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MARTHA H. DeGRAFF  
Board Judge